

### **Remarks/Arguments**

Claims 1-21 are now pending in this application. In the August 24, 2007 Office Action, Claims 1-20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,455,933 to Kodama et al., (hereinafter "*Kodama*").

For the reasons set forth below, the applicant respectfully requests reconsideration and immediate allowance of this application.

### **Finality of Office Action**

The August 24, 2007 Office Action was made final by the Examiner. However, the applicant respectfully submits that the finality of the Office Action is premature. The applicant submits that the final Office Action is incomplete and does not clearly develop the grounds for rejection to such an extent that the applicant may readily judge the advisability of an appeal as required by MPEP §706.07. The applicable portion of MPEP §706.07 states the following:

#### **STATEMENT OF GROUNDS**

In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection.

However, where a single previous Office action contains a complete statement of a ground of rejection, the final rejection may refer to such a statement and also should include a rebuttal of any arguments raised in the applicant's reply. If appeal is taken in such a case, the examiner's answer should contain a complete statement of the examiner's position. The final rejection letter should conclude with Form Paragraph 7.39.

MPEP §706.07

Even if the Examiner believes that the previous Office Action contained a complete statement of the grounds for rejection, the final rejection does not include a rebuttal of all of the arguments raised in the applicant's Response filed on July 5, 2007 in response to the first Office Action mailed on April 5, 2007 as required by MPEP §706.07 quoted above, as well as MPEP §707.07(f). Specifically, the Examiner has not responded to the applicant's first argument made in support of independent claim 1, that *Kodama* does not teach, describe, or suggest, "reading from the data storage devices one or more data storage device identifiers," as recited by claim 1. In the first Office Action, the Examiner referenced 28 lines from *Kodama* as describing the first three elements of claim 1. In the reply filed on July 5, 2007, the applicant specifically provided arguments as to the reasons that "reading from the data storage devices one or more data storage device identifiers" is not disclosed by the cited art. The final Office Action does not address the applicant's points with respect to the position that *Kodama* fails to teach, describe, or suggest, "reading from the data storage devices one or more data storage device identifiers," as recited by claim 1. This omission in the final Office Action of the Examiner's position with respect to this argument by the applicant makes readily judging the advisability of an appeal impossible since the applicant cannot know whether the Examiner agrees with the applicant's position presented in the July 5, 2007 reply or disagrees and the reasons for disagreeing.

Similarly, in response to the applicant's arguments in support of patentability for multiple claims over *Kodama* in the July 5, 2007 reply, the final Office Action repeatedly groups together claims and cites a portion of *Kodama* that does not address the arguments made for each separate claim discussed in the July 5, 2007 reply. For example, the final Office Action cites a portion of *Kodama* in response to the applicant's arguments for claim 3. See final Office Action, last paragraph page 6 – first paragraph page 8. In response to the applicant's arguments in support of claims 12, 13, 16, and 17, the final Office Action cites the exact same portion of *Kodama* that was cited for claim 3. See final Office Action, second paragraph page 10 – first paragraph page 11. The applicant respectfully submits that this portion of *Kodama* does not describe the recitations for any of claims 3, 12, 13, 16, and 17.

Moreover, these claims recite aspects of the present invention of various scope and content. The single portion of *Kodama* cited in the final Office action used to rebut the applicant's arguments does not address any, much less all, of this content and no explanation is provided other than the cited language of *Kodama* to rebut the applicant's arguments.

Additionally, claim 16 is an independent claim and is grouped with dependent claims 3, 12, 13, and 17 without further explanation or elaboration as to how the cited portion of *Kodama* describes the claimed invention. Likewise, in response to the applicant's arguments in support of claims 18-20, the final Office Action cites the exact same portion of *Kodama* that was cited for claims 9-11, even though these claims are of varying scope and content, with claim 20 being an independent claim. See final Office Action, second paragraph page 9 – first paragraph page 10, and second paragraph page 11 – first paragraph page 12. MPEP §707.07(d) states the following:

**A plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group.**

The applicant submits that the cited portions of *Kodama* are not equally applicable to all claims in the groups discussed above and respectfully requests further explanation as to how the cited portions of *Kodama* describe each recitation of the corresponding claims. Accordingly, because the final Office Action does not clearly develop the grounds for rejection to such an extent that the applicant may readily judge the advisability of an appeal, the applicant submits that the finality of the pending Office Action is premature and respectfully requests that it be withdrawn.

#### Independent Claim 1

Independent claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of independent claim 1. As stated above and in the July 5, 2007 reply, the applicant submits that *Kodama* fails to describe or suggest, “reading from each of the data storage devices one or more data storage device identifiers” as recited by claim 1. *Kodama* describes tape cassettes as data storage devices. These tape cassettes do not store identifiers relating to the tape cassettes. The portion of *Kodama* that is cited by the Office Action as teaching this recitation discusses storing a host ID. However, the host ID is stored within memory of the changer apparatus rather than in the tape cassettes and the host ID is an identifier associated with the host computer, not an identifier of the tape cassettes, as would be required by this recitation of claim 1. To be properly rejected under 35 U.S.C. §102(b), *Kodama* must disclose “reading from each of the data storage

devices one or more data storage device identifiers” as recited by claim 1. Because *Kodama* does not describe this recitation, independent claim 1 is allowable over *Kodama*.

Moreover, the applicant suggests that *Kodama* does not teach, suggest, or describe, “determining whether the data storage device is locked and returning from a powered off state or a hardware reset,” and performing an action in response to determining that the data storage devices is locked and returning from a powered off state or a hardware reset, as recited by claim 1. In response to the applicant’s discussion of this recitation in the July 5, 2007 reply, the Examiner cites a portion of *Kodama* that discloses a security protection locking and unlocking method without further elaboration or explanation. However, the applicant submits that the cited method from *Kodama* does not expressly or impliedly describe determining whether a tape cassette or any other element that could be construed to be a data storage device is returning from a powered off state or a hardware reset as recited by claim 1. The methods disclosed by *Kodama* do not consider whether the changer apparatus is returning from a powered off state or a hardware reset. Security protection information is stored within nonvolatile memory so that it is not erased upon the removal of power; however, whether or not the changer apparatus or any other device is returning from a powered off state, sleep state, or hardware reset is of no consequence to the operation disclosed by *Kodama*. The applicant respectfully requests that the rejection to independent claim 1 be withdrawn, or further explanation from the Examiner be given as to how the cited portions of *Kodama* disclose this recitation of independent claim 1.

#### Dependent Claim 2

Claim 2 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe any recitation of dependent claim 2. The final Office Action cites a portion of *Kodama* as teaching this recitation. The cited portion of *Kodama* discusses how conventional changer apparatuses lose reserve information when power is turned off and how the *Kodama* invention stores security protection information in nonvolatile memory so that it remains stored when the power is turned off. However, as discussed above with respect to independent claim 1, the applicant submits that storing information in nonvolatile memory so that it remains when power is turned off and then restored is not equivalent to performing each recitation of independent claim 1 during a power on test procedure of the computer hosting the data storage devices. Because there is no discussion

throughout the *Kodama* disclosure relating to performing content security verifications or other procedures during a POST (or mention of a BIOS, or booting procedure, or any other related procedure), the applicant respectfully submits that *Kodama* does not disclose the recitations of dependent claim 2 as required to sustain a rejection under 35 U.S.C. §102(b). For at least this reason, and because claim 2 depends from allowable independent claim 1, dependent claim 2 is allowable over *Kodama*.

#### Dependent Claim 3

Claim 3 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant has amended dependent claim 3 to clarify aspects of the recited invention. The applicant respectfully submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 3. In particular, *Kodama* does not describe or suggest, “setting a bit corresponding to each locked data storage device to exclude the locked data storage device from detection verification during a power on test procedure,” as recited by claim 3. This procedure is performed for locked drives that are presented to the operating system since detection verification would prevent a locked drive from being presented to the operating system. See Specification, P. 16, Lines 15-25. *Kodama* does not discuss embodiments in which a locked data storage device is presented to an operating system or isolated from the operating system depending on a determination that limited access should or should not be provided. Consequently, *Kodama* does not disclose a method for preparing a locked data storage device for presentation to an operating system for limited access, or specifically, “setting a bit corresponding to each locked data storage device to exclude the locked data storage device from detection verification during a power on test procedure,” as recited by claim 3. Accordingly, for at least this reason, and because claim 3 depends from allowable independent claim 1, dependent claim 3 is allowable over *Kodama*.

#### Dependent Claim 5

Claim 5 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 5. In particular, *Kodama* does not describe or suggest, “wherein the data storage devices are locked upon experiencing a powered off state, a sleep state, or a hardware reset,” as recited

by claim 5. In responding to the applicant's July 5, 2007 reply, the final Office Action again cites the portion of *Kodama* that describes storing security protection information in nonvolatile memory. As discussed above with respect to independent claim 1 and dependent claim 2, the applicant submits that storing security information in nonvolatile memory so that it remains when power is restored does not disclose locking data storage devices upon experiencing a powered off state, a sleep state, or a hardware reset. The changer apparatus described by *Kodama* does not take action to lock any of the tape cassettes or drives upon experiencing a powered off state, a sleep state, or a hardware reset. Accordingly, for at least these reasons, and because claim 5 depends from allowable independent claim 1, dependent claim 5 is allowable over *Kodama*.

#### Dependent Claim 6

Claim 6 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 6. As discussed above with respect to claims 1, 2, and 5, *Kodama* does not discuss a method that involves determining that a data storage device is returning from a powered off sleep state or taking any action as a result. Claim 6 recites a locked data storage device returning from a powered off sleep state that is determined to have been unlocked prior to the sleep state. After determining that the unlocked data storage device entered a sleep state, was then locked, and is now returning from the sleep state, a determination is made as to whether the device should be unlocked without requiring a user to enter a password, and taking subsequent action as a result. The portion of *Kodama* cited by the Office Action, and every other portion of *Kodama*, fails to disclose any recitation of claim 6. Accordingly, for at least these reasons, and because claim 6 depends from allowable independent base claim 1, dependent claim 6 is allowable over *Kodama*.

#### Dependent Claim 9

Claim 9 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 9. In particular, *Kodama* does not describe or suggest, "disabling, until a next power cycle, the security features that enable security passwords," as recited by claim 9. The Office Action again relies on the aspect of *Kodama* in which the security information is stored in

nonvolatile memory. The applicant respectfully submits that describing a security process that includes storing security information in nonvolatile memory so that it survives a loss of power is not equivalent to determining that the data storage device is unlocked and that no security password is enabled for the device, and in response, disabling the security features that enable security passwords until the next power cycle. There is no discussion within the *Kodama* disclosure regarding disabling security features until a next power cycle. For at least this reason, and because claim 9 depends from allowable independent claim 1, dependent claim 9 is allowable over *Kodama*.

#### Dependent Claim 10

Claim 10 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 10. In particular, *Kodama* does not describe or suggest making any determinations or taking any actions with respect to a backup password. There is no mention of backup passwords in the *Kodama* disclosure. Additionally, as discussed at length above, *Kodama* does not describe taking any action as a result of the data storage device returning from a powered off state or a hardware reset. For at least these reasons, and because claim 10 depends from allowable independent base claim 1, dependent claim 10 is allowable over *Kodama*.

#### Dependent Claim 11

Claim 11 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 11. In addition to not disclosing making any determinations or taking any actions with respect to a backup password, *Kodama* also does not describe “erasing the data storage device before unlocking the data storage device,” as recited by claim 11. The Office Action cites a portion of *Kodama* as disclosing the recitations of claims 9-11. However, there is nothing within the cited and quoted portions of *Kodama*, or any portion of *Kodama*, that discloses erasing a data storage device before unlocking it. The applicant respectfully requests that the Examiner separate the rejections of claims 9-11, and the other grouped rejections, and provide an explanation as to how the cited portions of *Kodama* disclosed the recitations of the present claims since the recitations of claims 9-11 vary in scope and content from one another. For at

least these reasons, and because claim 11 depends from allowable independent base claim 1, dependent claim 11 is allowable over *Kodama*.

#### Dependent Claim 12

Claim 12 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 12. In particular, *Kodama* does not describe or suggest a password entry attempt counter or making any determinations or taking any actions with respect to a password entry attempt counter. As will be discussed below with respect to independent claim 16, the applicant further submits that the final Office Action fails to address the applicant's argument in support of dependent claim 12 made in the July 5, 2007 reply. For at least this reason, and because claim 12 depends from allowable independent claim 1, dependent claim 12 is allowable over *Kodama*.

#### Dependent Claim 13

Claim 13 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 13. In particular, *Kodama* does not describe or suggest a setup utility within the BIOS for controlling security passwords for a data storage device. In fact, there is no mention within the *Kodama* disclosure of a BIOS or a BIOS setup utility. As will be discussed below with respect to independent claim 16, the applicant further submits that the final Office Action fails to address the applicant's argument in support of dependent claim 13 made in the July 5, 2007 reply. For at least these reasons, and because claim 13 depends from allowable independent claim 1, dependent claim 13 is allowable over *Kodama*.

#### Independent Claim 16

Independent claim 16 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of independent claim 16. In particular, as discussed above with respect to dependent claim 13, there is no discussion within *Kodama* of a BIOS or a BIOS setup utility. Consequently, there is also no discussion within *Kodama* of a BIOS having "an operating system independent setup utility for controlling functions for manipulating data storage device security," as recited by



claim 16. As previously stated, the Examiner's rebuttal to the applicant's arguments made in the July 5, 2007 Office Action groups together claims and cites a common portion of *Kodama* as describing the recitations of those claims. The claim 16 rebuttal was grouped together with that of claims 12, 13, and 17. However, the cited portion of *Kodama* does not disclose a BIOS that includes an operating system independent setup utility capable of controlling functions for manipulating data storage device security, as recited by claim 16. Accordingly, for at least these reasons, independent claim 16 is allowable over *Kodama*.

#### Dependent Claim 17

Claim 17 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 17. As discussed above with respect to independent claim 16, *Kodama* does not describe or suggest an operating system independent setup utility. Additionally, *Kodama* does not describe or suggest, "storing the security password on the selected data storage device," as recited by claim 17. As discussed above with respect to independent claim 1, *Kodama* describes storing a security password on a changer apparatus and on a host device, not on a tape cassette or other data storage device. For at least these reasons, and because claim 17 depends from allowable independent claim 16, dependent claim 17 is allowable over *Kodama*.

#### Dependent Claim 18

Claim 18 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of dependent claim 18. As discussed above with respect to independent claim 16, *Kodama* does not describe or suggest an operating system independent setup utility. Additionally, *Kodama* does not describe or suggest an operating system independent setup utility or equivalent that is operative to "determine whether a hardware reset is performed when the setup utility is exited and in response to determining that the hardware reset is not performed when the setup utility is exited, exit the setup utility and remove power from the selected data storage device thereby locking the selected data storage device with the security password," as recited by claim 18. *Kodama* does not describe a hardware reset or determining whether a hardware reset is performed. Consequently, *Kodama* cannot disclose determining whether a hardware reset is performed when

a setup utility is exited and performing the corresponding recitations accordingly. For at least this reason, and because claim 18 depends from allowable independent base claim 16, dependent claim 18 is allowable over *Kodama*.

#### Independent Claim 20

Independent claim 20 was rejected under 35 U.S.C. §102(b) as being anticipated by *Kodama*. The applicant submits that *Kodama* fails to teach, suggest, or describe each recitation of independent claim 20. As discussed above, there is no discussion within *Kodama* of locking data storage devices upon experiencing a sleep state, determining whether the data storage device is returning from a sleep state, and taking any actions based on this determination. Additionally, for the reasons discussed above with respect to claim 6, *Kodama* does not describe or suggest, “determining whether the data storage device was unlocked prior to the sleep state,” as recited by claim 20. The cited portion of *Kodama* describes locking and unlocking commands, as well as storing security information in nonvolatile memory. However, there is no discussion within the cited portion, or any portion, of *Kodama* regarding security protection with regards to sleep states, and specifically no disclosure of determining that a locked storage device is returning from a sleep state, that it was unlocked prior to the sleep state, and taking action based on these determinations. Accordingly, for at least these reasons, independent claim 20 is allowable over *Kodama*.

#### Dependent Claims 4, 7, 8, 14, 15, 19, and 21

Because *Kodama* fails to teach, suggest, or describe the recitations of claims 4, 7, 8, 14, 15, 19, and 21 and because claims 4, 7, 8, 14, 15, 19, and 21 depend from allowable independent claims 1, 16, and 20, dependent claims 4, 7, 8, 14, 15, 19, and 21 are allowable over *Kodama*.

**Conclusion**

In view of the foregoing amendment and remarks, the applicant respectfully submits that all of the pending claims in the present application are in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact the applicant's undersigned attorney at the number below.

Respectfully submitted,

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/Michael J. Baldauff, Jr./

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